

PG 15, SS, CS, EM, RH, RC, JG, GG

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BEFORE THE ADMINISTRATOR
U.S. ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

IN THE MATTER OF:

National Pollutant Discharge
Elimination System

Permit For:

United States Steel Corporation
Gary Works Facility, Gary,
Indiana
NPDES No. IN 0000281

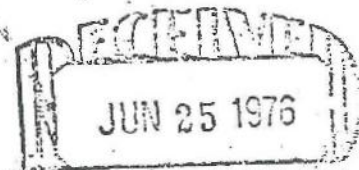
NPDES Appeal No. 76-3

MAGNAFAX

To: Bob Schae

Chicago Reg

FTS 353-2



U. S. ENVIRONMENTAL
PROTECTION AGENCY

DENIAL OF PETITION FOR REVIEW

On May 21, 1976, United States Steel Corporation ("USSC") filed a "Petition for Review of the Decisions of the Regional Administrator and of the General Counsel" in the above-captioned matter pursuant to 40 CFR 125.36(n). I am today denying USSC's Petition pursuant to 40 CFR 125.36 (n)(4).

Background

USSC's integrated steel mill at Gary, Indiana (the "Gary Works") discharges contaminated water into the east branch of the Grand Calumet River and into Lake Michigan. USSC has applied to EPA's Region V for a National Pollutant Discharge Elimination System (NPDES) permit for its discharges, as required by the Federal Water Pollution Control Act, P.L. 92-500.

Region V issued NPDES Permit No. IN 0000281 (the "Permit") for the Gary Works on October 31, 1974. USSC then filed a request for an adjudicatory hearing to contest certain terms and conditions of the

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Permit. In response to USSC's request, Region V conducted an adjudicatory hearing August 5-21, 1975.

On January 30, 1976 the Regional Administrator of Region V issued a limited remand order which required the re-convening of the adjudicatory hearing. The remand hearing was held on March 16, 1976.

The Regional Administrator issued his Initial Decision pursuant to 40 CFR 125.36(1) on May 11, 1976. The Initial Decision, which is 95 pages long, basically sustained the Permit as issued on October 31, 1974.

USSC's instant Petition, which is 75 pages long, raises 73 issues and sub-issues. USSC challenges the Initial Decision, the Decision of the General Counsel on Matters of Law No. 18 (June 25, 1975), and a letter from the General Counsel to the Regional Administrator (October 24, 1975).

Disposition of Petition

Upon review of the Initial Decision, the General Counsel pronouncements in issue, and USSC's Petition, I perceive no finding of fact or conclusion of law below which is clearly erroneous. Nor do I find a policy expressed below which I should reverse or further elaborate. Accordingly, the Petition has not made a sufficient showing under 40 CFR 125.36(n)(3) that my review in this matter is warranted. Though I need not state any reasons for my denial (40 CFR 125.36(n)(4)), I will respond briefly to a few of USSC's most basic points.

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(a) A common thread running through many of USSC's arguments is the contention that an "adjudicatory hearing" under 40 CFR 125.36 is a formal adjudication governed by the requirements of Sections 7 and 8 of the Administrative Procedure Act (5 U.S.C. secs. 556 and 557). I rejected this contention in Marathon Oil Company, et al., NPDES Appeal No. 75-3 (September 25, 1975), and nothing in USSC's Petition convinces me that my rejection was erroneous.

(b) USSC, citing United States v. GAF, 7 ERC 1581 (S.D. Tex., 1975), contends that Decision of the General Counsel No. 18 was erroneous. The General Counsel specifically took the GAF case into consideration in Decision No. 18,* however. I find no error in the General Counsel's decision.

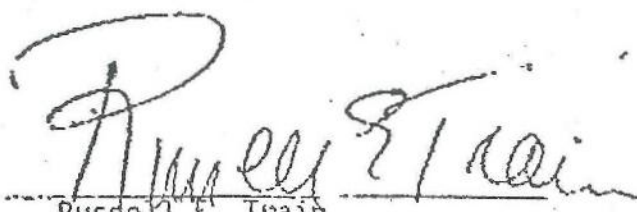
(c) USSC argues that its permit should specify a compliance date later than July 1, 1977. The Initial Decision correctly holds, however, that EPA has no authority to extend the statutorily-imposed deadline. I have today modified my decision of October 10, 1975 in U.S. Pipe and Foundry Company (NPDES Appeal No. 75-4) in response to a petition for reconsideration. Therefore, any potential conflict between that decision and the Initial Decision below has been resolved.

In light of the foregoing, the Initial Decision of the Regional Administrator in Case No. NPDES-V-027(AH), May 11, 1976, hereby becomes

* Decision of General Counsel No. 6, upon which No. 18 is based, also dealt specifically with the GAF case.

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my final decision and NPDES Permit No. 1N 0000281, as modified by the Initial Decision, shall become effective immediately.



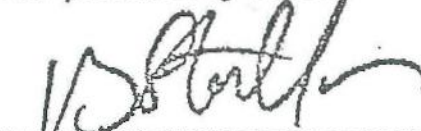
Russell E. Train

Dated: JUN 24 1976

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Certificate of Service

I hereby certify that copies of the foregoing Denial were mailed --
this date to all parties of record in the proceeding below



Richard G. Stoll, Jr.
Acting Judicial Officer

Dated: JUN 24 1976